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ADLA, LLC
ADF INC
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Re: ADF INC and ADLA, LLC CASE 1-CA-45068 JD-54-09

To Whom it May Concern:

On November 13, 2009, I received a decision from the Administrative Law Judge regarding the above referenced case 1-CA-45068.

I am writing to officially request an appeal of the decision in this case. My reasons for appealing the decision in this case are cited, as follows, and may include additional reasons, in the future, as this case is reviewed during the appeal process.

First of all the Administrative Law Judge showed complete biased toward ADF and ADLA, and its principals, Anthony DelFarno and Lisa Lavigne. The Administrative Law Judge's attitude to ADF and ADLA was Prima Facie throughout this entire case. All of his conclusions in this are based on speculation and hear say evidence. None of the Administrative Law Judges conclusions are supported by Facts for Factual evidence. A decision cannot be based solely on speculation and hear say evidence.

On Page 2 line 14 through 23, the Administrative Law judge is incorrect. ADLA, LLC was operating out of 3 Trocha Street Nashua NH and 75 Independence Way Cranston, RI. ADIA only stored equipment at 99 Jefferson Blvd Warwick, RI. To this day, ADLA, LLC registered only 4 of the 6 tractors. They were used by the drivers, as sub-contractors, similar to an equipment lease. The remaining tractors were not registered anywhere. In addition, the work has not been consistent and there were many days that none, or only one of the tractors has worked.

On Page 2 Lines 27 – 37, the Administrative Law judge is correct. Anthony DelFarno's testimony was correct. Originally, ADLA, LLC was owned primarily by Lisa Lavigne. In December 2008, Anthony DelFarno interest increased, but still Lisa Lavigne owned the Majority Ownership of ADLA, LLC. It is not self serving it is FACT. Anthony DelFarno was not a dispatcher, John Renzi and Louis Volante dispatched the trucks and drivers. Anthony DelFarno was not in charge of the hiring of trucks on a daily basis, that is a fact. The testimony from the Drivers even confirmed that they did not speak to Anthony DelFarno, nor did they receive orders from Anthony DelFarno.

On Page 2 Lines 38 – 50, Lisa Lavigne's testimony was not evasive. The Administrative Law judge is condemning Lisa Lavigne for not knowing or running every aspect of her business. Ms. Lavigne's testimony was that she delegated duties to other employees, like every other employer does in running a company. The administrative law judge was prejudice in his judgment of Lisa for being an owner of ADLA, LLC. In addition, documents were submitted several times to the opposing counsel. The fact is that the charging counsel and judge want to believe that ADLA, LLC was performing the same, if not more, in sales, than ADF INC. ADLA, LLC was not performing much work at all. ADF INC seen its sales plummet in 2008, due to the economy and increases in insurance costs. ADLA, LLC total sales were very minimal. Reams if documents and testimony was given by even the Drivers of ADF INC that sales and work had fallen and the company was barely able to cover payroll. The Administrative Law Judge, refused to even look at, or consider the FACTS that neither ADF, nor ADLA's sales were high. Income Tax Records, Testimony from Anthony DelFarno Lisa Lavigne, All Drivers and Workers, and Internal Work Papers submitted to the court, and testimony PROVED this to be true, yet the Judge refused to look at it. Instead he is making his decision based on speculation. A ruling on speculation cannot be accepted when The Factural Evidence Proves Otherwise. Furthermore, Lisa Lavigne referred to Hudson NH not Hudson RI? ADLA, did not have the same number as ADF throughout 2008? Again the Administrative Law Judge manipulates the evidence to fit is Pre Determined Decision.

On Page 3 Lines 22 – 27, Prior to December 2008, ADLA did have transportation needs and services, which were they used sub contract trucking companies to service. In March of 2009 ADF was evicted from its location at 99 Jefferson Blvd Warwick, RI. A copy of the eviction notice was submitted to the court. ADLA, moved its garage to 280 Pine St in Pawtucket, RI. ADLA, LLC has always used either 3 Trocha St Nashua, NH or 75 Independence Way Cranston, RI as their office and continued to use these locations as their offices.

On Page 3 Lines 37 – 42, After July 2008 ADF INC sales plunged. Its Workers Compensation rate rose to 1.92 times the normal rate, which meant that its Worker Compensation Insurance premium increased almost 100%. It was unable to obtain a quote for cargo insurance, due to loss history. ADF Inc was also unable to obtain Auto Liability insurance, because of loss history and would have to look that the insurance pool for coverage. ADF also owned two tractors that were in need of serious repairs and did not have the working capital to repair the vehicles, so they sold the vehicles, reducing its fleet. With that being done ADF Inc still was unable to get cargo Insurance or affordable Auto and WC Insurance and therefore could not operate as a motor carrier under the Federal Laws of the Federal Motor Carriers Safety Administration, FMCSA. ADF was out of business and could not operate. It had nothing to do with the teamsters union or collective bargaining agreement. The Administrative Law judge Refused to look at These Facts concerning ADF and why they reduced its Fleet. Also, Written into our Collective Bargaining Agreement with the Teamsters Union, On Page 8 Article XII, Paragraph (e) It Clearly States;

"The Employer agrees that it will continue its usual practice and will not use common carriers to service accounts normally serviced by its own trucks which total net effect would reduce its employees below three. The Employer, however, may reduce the number of employees below three if it is determined the volume of business requires that reduction and may use common carriers for those shipments, as it has in the past."

The Collective Bargaining Agreement between the Teamsters Local 251 and ADF INC was submitted to the court, and this specific paragraph was pointed out to the Administrative Law Judge. The Administrative Law Judge ignored this very important part of our contract and fact, and does not even mention it in his decision? Even if you combine the Sales of ADF and ADLA, They were less than half of the sales of ADF Inc in the previous year. ADF Inc seen its sales plummet. It could not obtain affordable insurance and insurance as required under the FMCSA. Steve Labrie admitted in court that he never asked how the sales were or why they were selling off some tractors. ADF sold two tractors in need of repair, as a result Dennis Barr, because he was low on the Senority list lost his job. In addition to his displaying gross insubordination by threatening to hit a foreman in the head with a pipe in New Haven CT. Mr Barr admitted this in Court. The Administrative law judge would like to just accept the charge by the union that ADF was doing all of this to ignore its collective bargaining agreement. But these facts prove that this was not the case. The Cannot be Ignored. ADF Inc was making changes to try and maintain its business intact. ADF INC was affected by forces other than the union and union contract. ADF was trying to get affordable insurance and lower its rent to stabilize its business because sales were off 50%. If the Administrative Law Judge would consider this Factual Evidence, he would have NO choice but to rule that ADF was not Violating its Collective Bargaining Agreement and ADLA is not an alter ego of ADF.

On Page 4, Lines 5 thru 9, Anthony DelFarno and Lisa Lavigne are not Husband and Wife, by the Legal Definition as outlined in Laws, in the States of Rhode Island and New Hampshire, and in Federal Law. Both ADF and ADLA have different Ownership. Anthony DelFarno and Lisa Lavigne has different residences. Anthony DelFarno is a resident of the State of Rhode Island. Lisa Lavigne is a Resident of the State of New Hampshire. The Administrative law Judge cannot Change Federal and State Law to make his Alter Ego Claim have merit.

On Page 4, Lines 14 thru 15, Anthony DelFarno is 100% owner of ADF INC. Anthony DelFarno is 45% owner of ADLA, LLC. Anthony DelFarno does not have complete control over ADLA. These are the facts. The Administrative Law Judge cannot ignore the factual legal ownership and status of ADF and ALDA. His claim has no foundation, it is just speculation.

On Page 4, Lines 18 – 25, This is completely false. The facts have already been stated (see Page 3 Lines 37 – 42). The "Significant Incentive" was to try to maintain a livelihood and save ADF INC and keep it in business. It had nothing to do with avoiding the Collective Bargaining Agreement. ADF could not operate any further due to problems with obtaining insurance and overhead, as a result of sales falling off. It was not the intent to close ADF Inc and move all operations to ADLA, LLC and this did not happen. ADLA, LLC only wanted to operate as a sub contractor of ADF INC and pursue its main work of construction and demolition. ADLA, LLC did not, and does not, want to operate as a transportation company. ADF INC could no longer operate with NO insurance, per the Laws of the FMCSA. ADLA, LLC could not handle all of the work of ADF Inc, even though ADF INC's total sales were significantly lower than in previous years. Therefore, work and customers were lost when ADF INC ceased operating. Had ADLA, not existed, all sales from transportation would have been lost, or another of ADF INC's subs, such as Ever Ready Trucking would have taken over customers. And many old customers of ADF INC, now use other transportation companies, other than ADLA, LLC further reducing sales. If the Administrative Law Judge would only look at these FACTS and TESTIMONY, instead of speculation, he would NOT be able to apply the alter ego status to ADLA, LLC.

On Page 4 Lines 26 thru 32, This a pure speculation by the Administrative law judge. Lisa Lavigne dealt with customers and sales. Louis Volante and John Renzi directed drivers and sub contractors. Anthony DelFarno managed accounting. Lisa Lavigne does not know all of the names of the customers of ADF INC, because ADLA, LLC is not working for all the customers of ADF INC. She, like Anthony DelFarno, does not know or direct all of the employees because other persons Louis Volante and John Renzi are responsible for directing employees.

On Page 4, Lines 34 thru 37, Both Lisa Lavigne and Anthony DelFarno have signing authority for ADLA. This is a similar task in any other company. Furthermore, the Administrative Law judge is incorrect, both Anthony DelFarno and Lisa Lavigne work on and prepare bids for work. Once again the Administrative Law Judge is just speculating. There is no Factual basis for his comment.

On Page 4, Lines, 39 thru Page 5 line 1, All testimony from all parties including drivers, verified that Louis Volante and John Renzi managed the drivers. Lisa Lavigne did have final say in hiring, if there was a question regarding an employee selection by Louis or John. Even the drivers confirmed that they spoke to Louis Volante and John Renzi. Lisa Lavigne managed her responsibilities in ADLA, and there is No Factural Proof that she did not. The Administrative Law Judge admits that Louis Volante and John Renzi managed the drivers, but then he also claims Anthony DelFarno managed all the drivers. This, like all the evidence in this case, is just a manipulation of evidence, and speculation of events by the Administrative Law Judge to make his Alter Ego case against ADF INC and ADLA, LLC. A ruling cannot be based on speculation and lack of any Factual proof.

The Administrative Law Judge cites cases such as Advanced Electric 268 NLRB 1001, 1002 McAllister Brothers, 278 NLRB 601, 616SRC, and SRC Painting, LLC 346 NLRB 707, 720. The Administrative Law Judge, then ignored the Foundations of the cited cases, the Factual Evidence of this case, rearranged the testimony and changed the meanings of the cited cases, so that they could be used to create and Alter Ego out of ADF INC and ADLA. This cannot be allowed and a ruling cannot be based on it.

On Page 5, lines 3 thru 8, the ADLA drivers are treated as Sub Contractors and are paid as sub contractors. ADLA, LLC performs less work than ADF and in not only a transportation company. The companies are very different. Javier Lopez said that the funds were not collected and he could not cash his check. A stop payment was placed on the check. Anthony DelFarno cashed a check from the ADLA, LLC account to replace the check and gave the cash to Javier Lopez in replace of his check.

On page 5, lines 10-17, ADLA and ADF do not have the same business purpose. ADF Inc is transportation. ADLA, LLC is construction and construction management. They are coded this was on the tax returned filed with the IRS and submitted to the court. ADLA only stored equipment at 99 Jefferson Blvd Warwick RI. Their office is at 3 Trocha St Nashua NH and 75 Independence Way Cranston, RI. Their garage is at 280 Pine St Pawtucket RI. The workers for ADLA do not work regularly. Since work has been irregular, they are treated as sub contractors and called in when needed. Some of them hand write the bills or hours and submit them to ADLA. Some do punch a time clock on the days they work if their work is hourly. These are the facts and ADLA, LLC does not operate identical to ADF as the

Administrative Judge alleged. ADF ceased operations and is out of business for the purpose of performing transportation services. Without proper insurance federal law prohibits ADF INC from operating as a transportation company.

On page 5, lines 19 thru 24, ADF let ADLA store equipment in their yard free of rent. ADF also allowed employees, such as Dennis Barr, to park their classic cars at 99 Jefferson Blvd free of rent. ADF also let other customers such as Capco Steel, store at 99 Jefferson Blvd free of rent. ADF did not treat ADLA, different from anyone else. Everyone was treated the same. These are the Facts. Furthermore, the black Kenworth was never registered in 2009 and has not operated. It is not owned and operated by ADLA, LLC. The state of Rhode Island IRP will verify this. These are the facts. The Administrative Law Judges conclusion is incorrect.

On Page 5, Lines 26 thru 28, ADF and ADLA are not in the same business. ADLA, is not a disguised ADF Inc. ADF Inc was uninsurable and was out of business. ADLA, has its own unique customers, which were never customers of ADF. ADLA, like all the other sub contractors who worked for ADF INC, picked up some of the work from customers of ADF, when ADF ceased to operate. ADLA did not take over all of the work.

If the Administrative Judge is to rule that ADLA is ADF in disguise, them he Must also include Every Other Sub Contractor, that worked for ADF and started to service an ADF customer after ADF was out of business, such as Ever Ready Trucking Co, West Bay Trucking, and John Roberts. To single out only ADLA, is showing extreme prejudice to ADLA by the NLRB. ADF was out of business, and the customers of ADF chose to use the transportation company of their choice. ADF had no contract with them and they had no obligation to use only ADF. These are the facts. ADLA, was not ADF in disguise.

On Page 5, Lines 33-34, There is also no legal basis or evidence for the NLRB to consider Anthony DelFarno to be held personally responsible.

On Page 5, lines 48 thru 51. There were instances when the corporate funds were not cleared by the bank. Also, the drivers at times, would be on the road and would not be back in Rhode Island to go to the bank and cash their check. They would ask Anthony DelFarno to go to the bank for them and cash their check for them an give the money to them at the end of the day when they returned back into Rhode Island. Anthony DelFarno did this out of the corporate checking account. There is no fraud in helping a worker. The corporation and individual were separate entities, so there should be no personal liability toward Anthony DelFarno. There were no extra expenses paid by the corporation.

On Page 6, lines 11 thru 18, ADLA, has always used the apartment at 75 Independence way as an office. Anthony DelFarno has not changed the way he accounts for or reports is income since 1990. In over 19 years, NONE of Anthony DelFarno's Income Tax Returns were questioned or changed by the IRS or State of Rhode Island. Also, in over 19 years, NONE of the Tax Returns of ADF INC were questioned or changed by the IRS or the State of Rhode Island. The Historical Evidence Clearly shows that Anthony DelFarno and ADF INC have reported all income and expenses accurately. For the Administrative Law Judge to even consider the credibility of the accounting and reporting of income by Anthony DelFarno for himself and ADF Inc is speculation and borders on Slander when 19 years of historical data show the All Income and Expenses are reported accurately. And that the Individual and the corporation maintained their separate identities.

One Page 6, Lines 26 thru 34, Any request made by Anthony DelFarno regarding this case was denied. Yet, Elaine Vorro asked for an extension to file her brief because she was busy, and was granted. This was just another example of the extreme prejudice applied to Anthony DelFarno, ADF INC, and ADLA, LLC by the NLRB in the handling and hearing of this case.

On Page 6, Line 36 thru 49, Anthony DelFarno received income from ADF INC and ADLA LLC. He did not diminish the corporation's ability to pay bills. Anthony DelFarno did not mishandle the funds of ADLA or ADF Inc. Anthony DelFarno did not transferr Assets between ADF INC, ADLA LLC, and Highway Const Services. In Fact, Financial Federal Credit is a secured Credit of all Equipment of ADF INC and ADLA LLC under separate notes. The notes are secured by all assets including accounts receivables. Financial Federal Credit also filed UCC Filings of these notes. So, nothing can be sold or transferred without their approval and consent. They also would have to be paid in full, first, before any net funds could be used for any other purpose. Therefore, it would be impossible to transfer assets and funds without first satisfying the debts of the corporations to Financial Federal Credit.

The fact is that ADF INC's revenue had dropped to less than 50% of its sales in previous years due to the Economy. ADF INC also lost customers because Local 251 Union Drivers threatened to assault a foreman on a jobsite with a steel pipe. The Workers Compensation Rating rose to 1.92% of the standard rate because of loss history caused mostly by Local 251 Union Drivers that filed claims. ADF INC could not obtain affordable insurance due to the Auto Liability Loss History of Accidents involving the tractors driven by Local 251 Union Drivers. These are the factors that hurt ADF INC (and possibly ADLA if it is to be considered an Alter Ego) and its ability to operate. Anthony DelFarno had nothing to do with any of these factual items the put ADF INC out of business.

I ask the NLRB to dismiss the General Counsel's request to amend the complaint to allege individual liability of Anthony DelFarno. There is no basis to merit such a charge.

If the Administrative Law Judge wishes to impose individual liability he should look toward the Teamsters Local 251 Union. It was the actions of the Union Drivers that the Local Teamsters #251 represent which impacted the insurance rating of ADF Inc so drastically that it put ADF Inc out of business. These actions by the union drivers also cost ADF Inc thousands of dollars in Extra Expenses, in Insurance Costs, Lost Time, and Back Charges by Customers. These costs all diminish the ability of a corporation to pay its bills and operate.

I ask the Administrative law judge to charge individual liability to the Teamsters Local 251 Union. Furthermore it would show extreme prejudice for the NLRB to look only at Anthony DelFarno and not at the Teamsters Local 251 Union, if it is trying to determine what actions, if any, impacted the corporations ADF INC and ADLA. The affects the Teamsters had on ADF INC can be Proven by loss history on file with the insurance companies and corporate records of Back Charges and Work Stoppages by Customers.

On Page 7, Lines 3 thru 41, I have supplied documents several times per the NLRB requests. I imformed the NLRB, Several times that I also was in the middle of my divorce trail and I had and attorney reviewing payroll records with the teamsters pension fund. In addition, when ADF Inc was 7

evicted from their office at 99 Jefferson Blvd Warwick, RI, documents were also lost. I requested additional time to finalize the ongoing cases so that additional documents could be gathered, but my request was denied.

The fact is that Anthony DelFarno did the best he could to produce as many documents as he could in the time frame allowed by the Administrative Law Judge. Some of the requested items did not exist. ADF INC and ADLA LLC should not be penalized or held in contempt, because they submitted what they had for documents and what they could collect. Nothing was withheld.

Furthermore, ADF Inc and ADLA Ilc operated separately. Originally, ADLA, LLC was going to be like any other sub working for ADF INC, only when needed. However, due to the problems of obtaining insurance, ADF Inc was forced to stop and ceased to operate in January of 2009. They had NO Insurance, the FMCAS forbid them from operating. As for payment of services, ADF INC, ADLA, Capco Steel Corp. and many other companies that we are associated with trade services for services and work for each other. Some items we all do not bill or get charged for. Lucy Reyes spoke to Mike Caparco Jr from Capco Steel Corp and he confirmed this to be TRUE, and validated his relation with Anthony DelFarno and Lisa Lavigne. Our statements have been backed up with documentation and testimony from independent sources. The Administrative Law Judge cannot infer anything other than that our statements are true.

On Page 8, Lines 3 thru 30, Dennis Barr was a driver for ADF INC. The truck he was driving was sold. As a result, he did not have a truck to drive and he did not have seniority over the other drivers. Secondly, he committed a crime, considered Gross Insubordination, by threatening to hit a project foreman in the head with a steel pipe. He admitted this in court, and the Local 251 Teamsters Union considers gross insubordination grounds for immediate termination. In addition, after June 2008, Dennis Barr drove over a fire hydrant causing damage to the tractor trailer. He also, drove his truck away from a crane while the load was still connected to it causing workers to jump off the trailer to avoid serious injury. Dennis then called at 4am one morning and said that he was going to kill himself or someone if he drove a truck. He took a medical leave. Brian Priest did not work for ADF Inc ahead of Dennis Barr. HE worked for ADLA, LLC.

Anthony DelFarno brought this to the attention of Steven Labrie and Joseph Bairos. Steven Labrie and Joseph Bairos told Anthony DelFarno to write a letter to Dennis Barr on 1/7/09 to inform him of his termination by gross insubordination. This was done under the advice of the Teamsters Local 251 Union. It was a just termination and it was not in violation of the collective bargaining agreement.

The Administrative law judge has to realize that ADF INC did not have a truck for Dennis Barr to drive even if he was not fired. Also, Dennis Barr never applied for employment with ADLA, LLC.

On Page 8, Lines 34, The appeals board should rule that ADF INC and ALDA, LLC are NOT alter egos.

On Page 8, Line 36 thru 37, The appeals board should rule that ADF INC is not in violation of its collective bargaining agreement.

On Page 9, Lines 3 thru 51, and on Page 10, Lines 1 thru 51, The Remedy and Order should be voided and the charges against ADF Inc, ADLA, LLC, and request for amended complaint against Anthony Delfarno should be dismissed.

Sincerely,

Anthony DelFarno Respondent for ADF INC AND ALDA, LLC

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